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BOOK REVIEWS AND NOTICES

Law and Business, Vols. I and II (Vol. III in press) By WILLIAM H. SPENCER. Chicago: University of Chicago Press. Pp. xviii+611; xviii+670.

The Law in Business Problems. By LINCOLN F. SCHAUB and NATHAN ISAACS. New York: Macmillan. Pp. xxxiv+821.

Schools of business are recognizing more and more that some knowledge of law should be a part of the equipment of their graduates. It is assumed that the specialized training of the law school is more than a business man requires, but that the prospective executive should have an appreciation of law as it affects his business in order to be able to conduct that business intelligently.

The volumes under consideration are designed to provide material for law courses in a school of business administration. In each case, the authors have found it advisable to include a large number of reported law cases. Aside from the success of the case book system in law schools, doubtless there is the additional argument that it is desirable even for a student of business to observe how a court handles problems, and to learn to analyze a set of facts into their legal values. Both volumes also include considerable text material to introduce and to supplement the cases.

Mr. Spencer's first volume is only an introduction to the study of law, the first of a three-volume series. In keeping with this purpose, the author has carefully analyzed his field, not alone in its relation to other business studies, as is shown in the Preface by Dean L. C. Marshall of the University of Chicago School of Commerce and Administration, but in regard to the proper scope of business law training itself.

The book opens with an eighty-page "Background for the Study of Law," consisting almost entirely of extracts from legal writers ranging from Blackstone to present-day authors. This treats the philosophy of the law, as shown in its origin and nature; its divisions; and the systems of law, civil and common, and common-law and equity. There are many pages of explanation of forms of action, in which each is taken up in some detail—in fact, many of the extracts are taken directly from current encyclopedias and textbooks on pleading. Following this is a

discussion of pleading, with forms of summons, pleas, demurrers, and so on. There is in addition a consideration of appellate court jurisdiction and procedure. Finally there is a discussion of the study of cases. Here the author endeavors to point out rules for determining the value of decisions. It is questionable whether this can be done categorically, and there is the further question whether it should be attempted at all. The impression one obtains is that some decisions can be straightway discarded, because they fall under some rule stated. In general, the analysis is sound enough, but in its specific applications, even a skilled lawyer would have great difficulty.

In this first volume, cases on persons, torts, contracts, agency, and property are included. The cases as a whole are well selected. In specific instances, no doubt, teachers will question the choice. But in the main, there can be no doubt that a study of the cases under a competent instructor will give a good idea of the principles of the subject involved. It should be further noted that each case is followed by a list of a dozen or more questions on various aspects of it, and on related problems. These should be a great assistance to the student in grasping what is involved, and to the teacher in his instruction.

One question might be suggested in conclusion: Whether the treatment here is more detailed than a business law course should give. The introductory matter particularly may be queried on this score. Much of it would be difficult for a law student to fathom, for it is entirely abstract, and deals quite minutely with matters of legal philosophy and pleading. For example, is any purpose served by the two pages on the fictions in the action of ejectment? It is interesting to the legal historian, but is it material to a business man?

In the second volume, Mr. Spencer has undertaken to group collections of cases and questions under a functional division of business: market transactions; market practices; legal devices for securing money and credit; powers of creditors; and privileges of debtors. This division illustrates the purpose of the text—to provide, not a short course in law, but a study by means of cases of the legal angles to business problems. Of course, the danger in such a pioneer effort is that the material will be treated wholly in an orthodox legal fashion, thereby producing poor lawyers, rather than well-trained business men. Under the main headings, the usual terminology of the law school is used, and to a considerable degree, the method of treatment is the same as in the standard casebook.

In the main, however, Mr. Spencer has succeeded in his task. Some of the introductory definitions seem unduly legalistic; and it might have

been wiser to have illustrated more clearly exactly what constitutes a good negotiable instrument, than what curious and unusual writings are not negotiable instruments. For it is a fair assumption that, should the average business man be forced to bring suit on many of the various instruments involved in the selected cases, he would hasten to his lawyer, and properly.

In the chapter "Market Practices" there is a considerable collection of cases on unfair competition and infringement of trade-marks and trade names. This is a rapidly growing field possessing much interest for most large firms. The material seems wisely selected, and very appropriate for a work of this kind.

Other good features of the volume are the collection of cases on the powers of creditors, which illustrates in a small space all the ordinary remedies against the debtor; and the appendixes containing the uniform sales act, negotiable instruments act, and extracts from the trade-mark, Clayton, trade commission and bankruptcy acts.

The projected third volume will contain chapters upon risk and risk-bearing; labor; and the form of business unit. This will complete the series.

The two volumes already published show care in arrangement and in preparation. They cannot of course be accurately evaluated except on the basis of actual results obtained with classes using them. Probably further progress will be made in arranging legal case material under functional business divisions. But as an early undertaking in relating law to the whole field of business, these volumes deserve much praise. They provide an excellent reservoir of cases for a business law course.

The Law in Business Problems (Schaub and Isaacs) is intended to be complete in one volume. Its divisions are based on the business problem as a unit, around which are grouped cases and material from various branches of the law. The four parts of the volume are: "Engaging in Business"; "The Law of Contracts"; "The Enforcement of Contracts"; and "The Law of Business Organization."

The first chapter is an excellent short discussion of the nature and sources of the law. Inasmuch as the average business law student is not expected to become a trained lawyer, this material seems adequate to give him the fundamental concepts he will need. As a matter of unity, it might have been desirable to include here the chapter on legal machinery, given under Part III, in order to give the student a foundation of legal procedure at the outset. Doubtless it was thought that this more difficult matter was better treated later.

The succeeding chapter on the status of the business man illustrates one criticism to which the book may be open. Instead of some illuminating text-matter on the subject, the authors have included short extracts of cases and statutes involving constitutional law, bills and notes, bailments, partnership, and sales. Will the brief treatment in a small number of pages of cases drawn from such a variety of fields really clarify for the student the business man's status? There is certainly a danger of his obtaining merely a series of unrelated notions.

Licensing and unfair competition are treated as preliminary to the main body of the book—the subject of contracts. Cases and considerable explanatory material illustrate the various contractual problems. The authors intersperse groups of questions consisting of hypothetical cases, at the end of the various subtopics. There is not, however, as much space devoted to these questions as in *Law and Business*. The effect of the Statute of Frauds, capacity, illegality, and the construction of contracts as affected by trade custom are the subject of various succeeding divisions. Some teachers may wish that more material had been included upon conditions in contracts and the discharge of contracts—subjects which are very much involved in business today.

Suretyship, mortgages, conditional sales, pledges, and negotiable instruments are all treated as credit contracts. Here again there is considerable question whether it would not have been wiser to include more general matter on all the different defenses open to a surety, for example, rather than a few cases illustrating only a few of these defenses. Similarly in the chapter on the formation of the agency, partnership, and corporation, it may well be said that there should be more cases or text on how an agent may be appointed, a partnership formed, or the relative advantages, as a means of doing business, of the partnership or the corporation. Further, it is questionable whether the student gets a very complete idea of *ultra vires* from the few cases given.

The final chapters on internal relations and on dissolution and accounting treat, among other matters, the questions of business ethics in the case of an agent, the validity of corporate contracts with directors, the rights and privileges of minority and individual stockholders, the effect of death upon an agency or partnership, and some methods of corporate dissolution.

Appendixes list the jurisdictions adopting the uniform acts; and there is a useful classification of federal and state laws affecting business.

As a whole the divisions of a volume are logical from the business point of view. If any criticism is to be made, it is on the basis that too

much space is devoted to single specific problems, without mention of equally important correlative questions; and that frequently cases are interposed where possibly it would have made for clarity to have devoted the space to explanatory text.

It is difficult to compare the two sets of volumes. It is clear, however, that Mr. Spencer contemplates a longer course, and the teaching of the state of the law more specifically. As has been stated, a study of the cases in *Law and Business* would give a fairly comprehensive and reasonably accurate knowledge of the important legal questions on the subjects treated. Since *The Law in Business Problems* does not attempt, aside from the subject of contracts, to treat the legal relation as a unit, but rather to take the business problem as a nucleus around which to group any legal matters connected with it, the student will not view individual branches of the law as a whole. It is therefore most important that the material with which he is presented give a sound notion of the aspect touched upon. In several instances, as heretofore noted, it seems that the material is insufficient in failing to touch related and equally important problems. Mr. Spencer's three-volume series is well calculated to give the business student a good grasp of the law he needs.

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